

REMARKS

1. Status of the Claims and Formal Matters

a. Interview Summary

Applicant thanks the Examiner for the courtesy shown during the telephone interview of 30 March 2005, during which the cited art, claim scope, and possible amendments were discussed. The possibility of a declaration from the inventor explaining the use of the name "Isaac" and "Itzak" were also discussed.

b. Declaration of Dr. Isaac Bentwich

The Applicant submits herewith a "Declaration of Isaac Bentwich" in which Dr. Bentwich states that the names "Isaac" and "Itzak" used interchangeably on a number of pending patent applications both refer to him and that "Itzak" is the Hebrew version of "Isaac."

c. Amendments

Claims 1-2 and 5-25 are pending in this application. Claims 2, 5-7, 9-10, 13, 15-22, 24 and 25 are withdrawn from further consideration. Claims 1, 8, 12, and 23 are amended. New claim 26 has been added and is supported in the application as filed. Applicants respectfully request entry of the amendments and remarks made herein into the file history of the present application.

d. Information Disclosure Statement

At page 4 of the Office Action, the Examiner states that the references listed in the specification are not a proper information disclosure statement. An Information Disclosure Statement in compliance with 37 CFR §§ 1.56, 1.97 and 1.98 was filed on March 21, 2006. Applicant respectfully requests that the cited references be considered by the Examiner.

e. Co-Pending Applications

In response to the Examiner's instruction that Applicants identify any additional co-pending or related applications that contain claims drawn to a nucleic acid sequence and wherein the disclosure includes a list of SEQ ID NO:14 as listed in the present application. In response, the Applicants have searched for that sequence in copending applications and have found the sequence in U.S. Patent Application Nos. 60/522,459; 10/536,560 as SEQ ID NO:294; 10/536,560 as SEQ ID NOS:14496, 781 AND 782.

2. Patentability Rejections

a. Obviousness-Type Double Patenting

At page 5 of the Office Action, the Examiner provisionally rejects claims 1, 8, 11-12, 14 and 23 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8, 12 and 14 of copending Application No. 10/605,838; claims 1-8, 12 and 15 of copending Application No. 10/605,840; claims 1-8, 12 and 14 of copending Application No. 10/707,003; claims 1, 2 and 4 of copending Application No. 10/708,952; and claims 1, 2 and 5 of copending Application No. 10/709,739.

In view of the amendments and remarks made herein, Applicant believes that the only outstanding rejection is the obviousness-type double patenting rejection, which will allow the Examiner to withdraw the provisional rejection and convert it to a double patenting rejection in the co-pending cases. In view of the instant application being filed earlier than the cited applications, Applicant respectfully requests that the obviousness-type double patenting rejection be withdrawn pursuant to MPEP 804.I.B.1.

b. 102(b)

At page 6 of the Office Action, the Examiner rejects claims 1, 8, 11-12, 14 and 23 under 35 U.S.C. § 102 as being anticipated by Brander et al. ("Brander"). With respect to claims 1 and 23, the Examiner alleges that Brander discloses the isolated and submission of HIV-1 viral-derived gene under accession number AF017925 which has 100% identity to that of elected sequence SEQ ID NO: 14. Applicant respectfully traverses.

The sequence set forth under accession number AF017925 consists of 451 nucleotides. Claims 1 and 8 have been amended to recite that the nucleic acid is from about 50 up to about 120 nucleotides. The claimed sequence is, therefore, distinct from the cited sequence set forth under accession number AF017925. Accordingly, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

With respect to claims 11-12, 14 and 23, Applicant reiterate the arguments set forth above. The cited 451 nucleotide sequence set forth under accession number AF017925 is distinct from the sequence as presently claimed. Accordingly, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

3. Conclusion

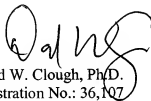
Applicant respectfully submits that the instant application is in good and proper order for allowance and early notification to this effect is solicited. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the instant application, the Examiner is encouraged to call the undersigned at the number listed below.

Respectfully submitted,

HOWREY LLP

Dated: April 10, 2006

By:

A handwritten signature in black ink, appearing to read 'D. Clough', written over the printed name and registration information.

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